**IN THE HIGH COURT OF UTTARANCHAL**
**AT NAINITAL**

Criminal Misc. Application No. 531 of 2006

Rajkumar S/o Sri Chandra Pal
R/o Village Raise, P.S. Laxar
District Haridwar .... Applicant

Vs

1. State of Uttaranchal
2. Chandra Pal S/o Kudva
   R/o Village Kalasia
   P.S. Laksar
   District Haridwar .... Respondents

Sri Sanjeev Singh, learned counsel for the applicant/petitioner
Learned A.G.A. for the State
Sri Mahaveer Singh Tyagi, learned counsel for the respondent/complainant

**Hon'ble B.C. Kandpal, J.**

This petition under Section 482 Cr.P.C. has been filed by the applicant for quashing the proceedings in Complaint Case No. 54 of 2006 Chandrapal Vs Rajkumar under Section 379 of I.P.C. pending in the court of Civil Judge (J.D)/Judicial Magistrate, Laksar, Haridwar as well as summoning order dated 05.07.2006.

2. Heard Sri Sanjeev Singh, learned counsel for the petitioner, Sri M.S. Tyagi, learned counsel for the complainant, learned A.G.A. and perused the record.

3. The contention of the petitioner is that no prima-facie case under Section 379 of I.P.C. is made out against him as the tractor involved in the offence had come in his share by way of family partition.

4. The record reveals that the registered owner of the tractor is still opposite party No. 2 and the Magistrate keeping in view the documents of the tractor as well as this fact that the tractor is in the name of respondent No. 2, directed the

Station Officer, Police Station, Laksar to take the possession of the tractor. Had the tractor been in the lawful possession of the petitioner, then the Magistrate after having perused the document pertaining to the ownership of the tractor would not have passed this order and the petitioner would have taken steps for getting the tractor registered in his name but nothing has been done by the petitioner in this regard and there is no indication available on the material on record that the petitioner in any manner is the registered owner of the tractor.

5. Having considered the aforesaid circumstances, I do not find any merit in this petition and I also do not find any abuse of process of court.

6. In case if the petitioner claims that he is the owner of the tractor in question, he may adduce the evidence in this regard before the trial Judge. At this stage, I am not supposed to embark upon an enquiry with regard to the reliability of the evidence which is to be adduced before the trial court.

7. In view of the above, the petition lacks merit and is liable to be dismissed.

8. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

9. However, in case, if the applicant appears before the court for seeking his bail, the court concerned shall expedite the disposal of his bail application.

**(B.C. Kandpal, J.)**

12.07.2006
ASWAL